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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:)	
)	
Satellite Delivery of Network Signals)	CS Docket No. 98-201
to Unserved Households for)	RM No. 9335
Purposes of the Satellite Home)	RM No. 9345
Viewer Act)	
)	
Part 73 Definition and Measurement)	
of Signals of Grade B Intensity)	

To: The Commission - Mail Stop 1170

COMMENTS OF MONTCLAIR COMMUNICATIONS

1. Introduction. Montclair Communications ("Montclair") hereby submits these comments in response to the Commission's *Notice of Proposed Rule Making* ("NPRM") in the above-captioned proceeding, FCC 98-302, released November 17, 1998. Montclair is the licensee of WZVN-TV, Naples, Florida, an ABC Network affiliate serving the Ft. Myers-Naples, DMA. As Montclair is a broadcast affiliate providing programming to the public, Montclair has an interest in this proceeding. Montclair urges the Commission to recognize that the changes proposed by the petitions filed by the National Rural Telecommunications Cooperative ("NRTC") and EchoStar Communications Corporation ("EchoStar") are unnecessary and detrimental to both broadcasters and the viewing public. No changes are needed to current standards for determining local service; rather, the current law should be enforced. Accordingly, the Commission should decline to adopt the changes proposed in the NPRM regarding methods for determining whether a household is "unserved" by local network affiliated television broadcast stations for purposes of the 1988 Satellite Home Viewer Act ("SHVA").¹

¹ 17 U.S.C. § 119 (1998).

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List A B C D E

2. Localism and economic viability. The principles of localism and the economic viability of local stations will be adversely affected by the modification of the definition of television signal intensity of Grade B contours for purposes of the SHVA. As the Commission recognizes in the NPRM, Congress was concerned that without copyright protection, the economic viability of local stations, specifically those affiliated with national broadcast networks, might be jeopardized, thus undermining one important source of local information.² The changes proposed in the NPRM would slash the size of local television station audiences, attacking the very viability that Congress sought to protect. As audiences diminish, so will advertising diminish and stations will be deprived of resources used to provide local news and public service programs.

3. If the proposals in the NPRM are adopted, resources will become increasingly unavailable to Montclair and other small stations making it increasingly difficult for small stations to remain in business. Montclair operates WZVN-TV, a local station providing service to its community of license. Montclair is a new entrant into the broadcast business and is owned and operated by a woman with no other broadcast interests. The Commission has stated that opportunities for women- and minority-owned broadcasters are a priority, and yet adoption of the proposals in the NPRM will go further to diminishing the opportunities for those individuals and other small broadcasters.

4. The satellite industry has misled its subscribers by representing that local stations would be available when such provision was unlawful. However, these viewers will not be denied access to broadcast network service if they lose their satellite network package. Broadcast network

² See NPRM at ¶3.

service will be readily available over-the-air and will always be available to viewers free of charge. Additionally, broadcast network service will be provided from local stations, providing local news and broadcasting of interest to the communities of license. This local service is not available from the satellite providers in any case and its loss would be detrimental to the public interest.

5. Local broadcast stations and its programming serves a multitude of noteworthy results to the local communities which will be adversely impacted by the proposals in the NPRM. Adverse impacts will be felt by local and state governments, police, fire, and other safety organizations who rely on the ability of local broadcast television to reach the public. The Commission has adopted EAS rules whereby the main resource for the public to learn about public safety issues such as disaster and weather concerns is through broadcast to the local communities by local broadcast stations. If less local broadcasting is received by communities, the dissemination of information to communities in times of crisis will be diminished. Additionally, viewers will have more difficulty obtaining information on other issues of public importance, such as, for example, information on elections and city council issues. Making it more difficult for viewers to obtain such information is contrary to the fundamental localism concept embraced by the Commission and the Communications Act.

6. Conclusion. Localism and the economic viability of local stations have been paramount considerations of the Commission and Congress. Providing for reduced copyright protection as proposed in the NPRM will result in a loss of localism and will jeopardize the economic viability of local stations while also, in many cases, curtail the broadcasting opportunities available to small, women- and minority-owned businesses. While enhancing competition may be a laudable goal, competition to cable should not be achieved at the expense of broadcasters,

especially small broadcasters serving the public need and local interests. This is especially true when the assistance which will be provided is to a satellite industry which has misled and deceived its customers by representations that such programming is available when it is clearly is not available lawfully. The satellite industry should not be rewarded for its improper practices, especially when subscribers will not lose access to broadcast network programing but will remain able to receive free, over-the-air broadcasts from local affiliates, in addition to other local information that is imperative to health and safety. If satellites are to deliver terrestrial broadcast signals, localism and competition must be protected by the carriage of local broadcast stations in every market pursuant to must-carry and retransmission consent provisions comparable to those for cable.

WHEREFORE, we respectfully request that the Commission consider the foregoing Comments and refrain from reducing the protection afforded by the SHVA.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michelle A. McClure", is written over a horizontal line.

Peter Tannenwald
Michelle A. McClure

Counsel for Montclair Communications

Irwin, Campbell & Tannenwald, P.C.
1730 Rhode Island Ave., N.W., Suite 200
Washington, D.C. 20036-3101
Tel. 202-728-0400
Fax 202-728-0354

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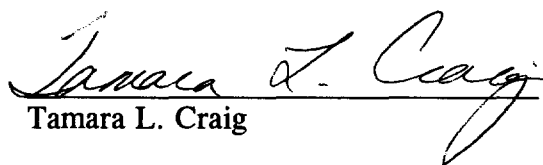
CERTIFICATE OF SERVICE

I, Tamara L. Craig, hereby certify that on this 11th day of December, 1998, copies of the foregoing "Comments of Montclair Communications" have been served by first class mail, postage prepaid, upon the following:

Steve T. Berman
Senior Vice President
Business Affairs and General Counsel
National Rural Telecommunications Cooperative
2201 Cooperative Way, Suite 400
Woodland Park
Herndon, VA 20171

EchoStar Communications Corporation
5701 South Santa Fe
Littleton, CO 80120

Thomas J. Overton
Overton & Feeley
1120 Lincoln, Suite 1120
Denver, CO 80202
Counsel for EchoStar Communications Corporation


Tamara L. Craig